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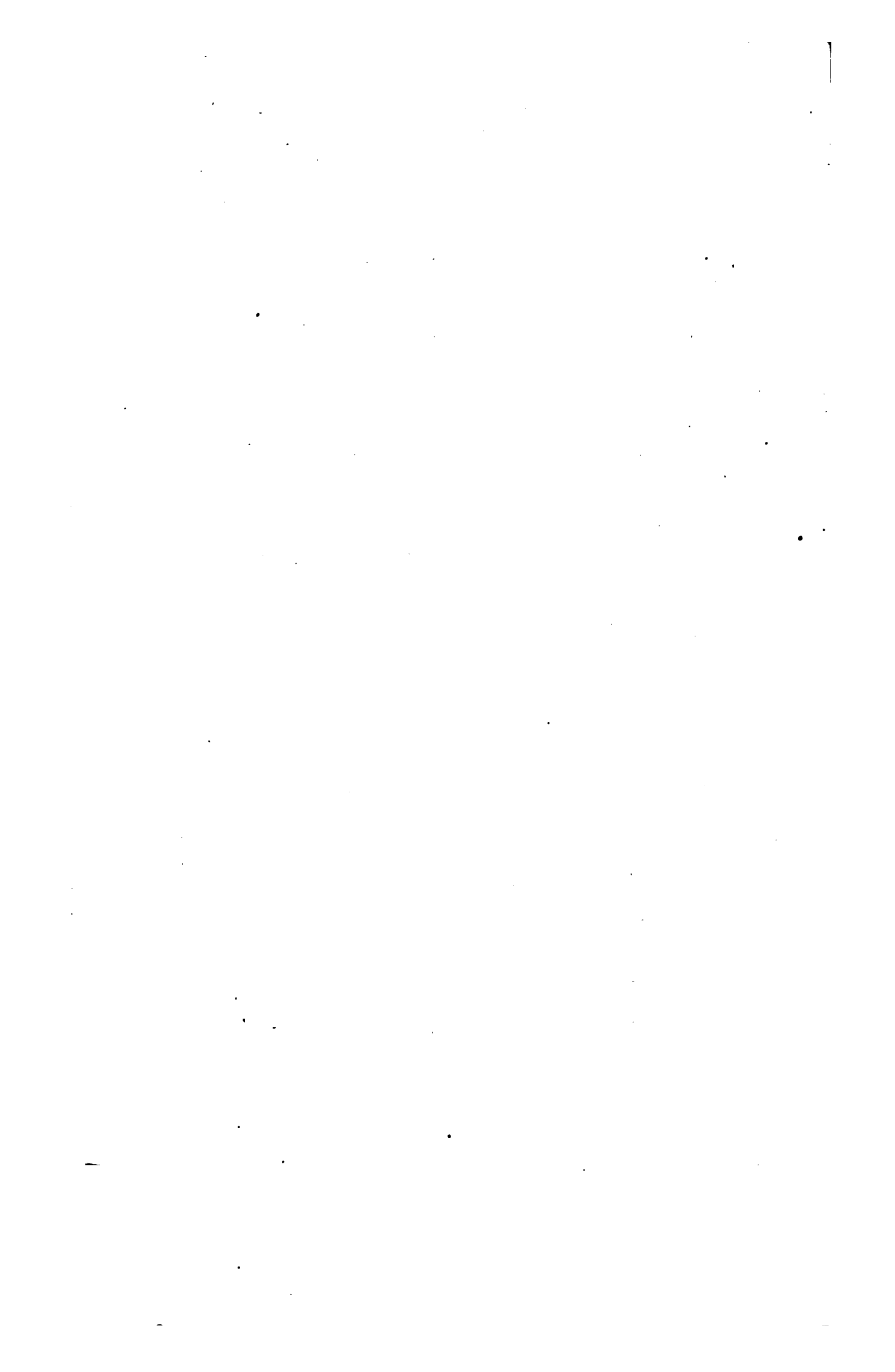
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THE LAW  
FOR THE  
GOVERNMENT  
OF THE  
MASSACHUSETTS MILITIA.

CHAPTER 313. APPROVED MAY 29, 1873.

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SECT. 1. Every able-bodied male citizen, resident within this state, of the age of eighteen years, and under the age of forty-five years, excepting persons exempted by the following sections; idiots, lunatics, common drunkards, vagabonds, paupers, and persons convicted of any infamous crime, shall be enrolled in the militia. Persons so convicted after enrolment shall forthwith be disenrolled; and in all cases of doubt respecting the age of a person enrolled, the burden of proof shall be upon him.

Persons to be enrolled.

Assessors to prepare lists, and clerks to make returns.

SECT. 2. Assessors shall annually in May or June make a list of persons living within their respective limits liable to enrolment, and place a certified copy thereof in the hands of the clerks of their respective cities and towns, who shall place it on file with the records of such city or town, and annually in May, June or July, transmit returns of the militia thus enrolled to the adjutant-general.

Penalty for not giving information to assessors.

SECT. 3. Keepers of taverns or boarding-houses, and masters and mistresses of dwelling-houses, shall, upon application of the assessors within whose bounds their houses are situated, or of persons acting under them, give information of the names of persons residing in their houses liable to enrolment or to do military duty; and every such person shall, upon like application, give his name and age; and if such keeper, master, mistress or person refuses to give such information, or give false information, such keeper, master or mistress shall forfeit and pay twenty dollars, and such person shall forfeit and pay twelve dollars, to be recovered on complaint of either of the assessors.

Enrolled militia not liable to active duty except in case of war.

SECT. 4. The enrolled militia shall be subject to no active duty, except in case of war, invasion, the prevention of invasion, the suppression of riots and to aid civil officers in the execution of the laws of the Commonwealth; in which cases the commander-in-chief shall order out for actual service, by draft or otherwise, as many of the militia as necessity demands.

Draft from the militia.

SECT. 5. The order of the commander-in-chief may be directed to the mayor and aldermen of cities, or to the selectmen of towns, who shall thereupon appoint a time and place of parade for the militia, in their city or town, and order them to appear at the time and place, either by leaving a written notice, or orally, and then and there proceed to draft as many thereof, or accept as many volunteers, as is required by the order of the com-

mander-in-chief; and shall forthwith notify the commander-in-chief that they have performed such duty.

SECT. 6. Every soldier ordered out, or who volunteers or is detached or drafted under the provisions of section thirteen of this act, who does not appear at the time and place designated by the mayor and aldermen or selectmen, or who has not some able-bodied and proper substitute, at such time and place, or does not pay to such mayor and aldermen, or selectmen, for the use of the Commonwealth, the sum of seventy-five dollars within twenty-four hours from such time, shall be taken to be a soldier absent without leave, and dealt with accordingly.

Penalty on soldiers for not appearing, or not furnishing a substitute.

SECT. 7. When the militia are ordered out, or have volunteered for, and while they are in actual service, as specified in section four, they shall be organized by the commander-in-chief, with the advice of the council, into companies, battalions, regiments, brigades and divisions, which shall be numbered and record thereof made in the office of the adjutant-general; and shall be officered, governed and trained according to the laws of this state and the United States; and the state shall furnish arms and equipments for each non-commissioned officer and private, and pay them until their term of service expires; and when troops are in the field for such purposes, the senior officer of the troops present shall command, until the commander-in-chief or some officer detailed by him takes command. Each commissioned officer shall provide himself with suitable side-arms.

Militia in active service to be organized into companies, &c.

State to furnish arms and equipments.

SECT. 8. When the commander-in-chief deems it necessary, he shall require cities and towns to provide, in some suitable place therein, sixty-four pounds of powder, one hundred pounds of musket and rifle balls, and also three copper, iron or tin camp-kettles for every sixty-four soldiers enrolled in said town, and the same proportion for a greater or less number, and to keep the same until such

Towns may be required to provide ammunition and camp-kettles.

requirement is revoked. Every place neglecting to comply with such requisition shall forfeit and pay not less than twenty nor more than five hundred dollars.

Persons ex-  
empted  
from all  
military  
duty.

SECT. 9. In addition to the persons exempted from enrolment in the militia by the laws of the United States, the persons hereinafter mentioned shall also be absolutely exempted from enrolment, viz.: justices and clerks of courts of record; registers of probate and insolvency; registers of deeds and sheriffs; officers who have held or may hold commissions in the regular or volunteer army or navy of the United States; officers who have held, for a period of five years, commissions in the militia of this or any other state of the United States, or who have been superseded and discharged, or who held commissions in any corps at the time of its disbandment; staff officers heretofore exempted, and whose offices shall become vacant by the provisions of section forty-six; ministers of the gospel; practising physicians; the superintendents, officers and assistants employed in or about either of the state hospitals, state almshouses, state prison, jails, or houses of correction; keepers of light-houses, telegraphic operators, and conductors and engine-drivers of railroad trains, and seamen actually employed on board of any vessel, or who have been so employed within three months next preceding the time of enrolment.

Exemption  
of Quakers  
and Shakers.

SECT. 10. Every person of either of the religious denominations of Quakers or Shakers, who on or before the first Tuesday in May, annually, produces to the assessors of the city or town in which he resides, a certificate, signed by two or more of the elders or overseers (as the case may be), and countersigned by the clerk of the society with which he meets for public religious worship, shall be exempted from enrolment. The certificate shall be in form as follows:—

We, the subscribers, of the society of people called  
in the town of \_\_\_\_\_, in the county of \_\_\_\_\_,



do hereby certify that \_\_\_\_\_ is a member of our society, and that he frequently and usually attends religious worship with said society, and we believe he is conscientiously scrupulous of bearing arms.

E. F., Clerk.      A. B. { *Elders or overseers*  
C. D. { (as the case may be).

SECT. 11. Enginemen, or members of the fire department in a city or town, shall be exempted from military duty by forthwith filing with the assessors of the city or town in which they reside, a certificate that they are enginemen or members of the fire department as aforesaid, signed by the mayor and aldermen of such city, or the selectmen of such town; but when a member of a volunteer company is, after his enlistment, appointed an engineman or member of the fire department, it shall not vacate his enlistment. Exemption of members of the fire department.

SECT. 12. Every non-commissioned officer or private having bodily infirmity, may be exempted from military duty, if he obtains from the surgeon or assistant-surgeon of the regiment, battalion or detached company to which he belongs (or, if there are no such officers commissioned in such regiment, battalion or company, then from some respectable physician living within the bounds of the same), a certificate that he is unable to do military duty, on account of bodily infirmity, the nature of which shall be described in such certificate; and the captain or commanding officer of his company may, on the back of the certificate, discharge the non-commissioned officer or private named therein, from performing military duty, for a term of time which he judges reasonable, not exceeding one year; which certificate, when countersigned by the colonel or commanding officer of said regiment, battalion or company, shall, for the time specified, exempt him from military duty, except attendance at the election of officers. If such non-commissioned officer or private, having obtained such certificate, is refused a discharge, he may apply to the commanding officer of the brigade, who may dis- Exemption of soldiers having bodily infirmity.

charge him from military duty for such time, not exceeding one year, as he judges reasonable, by endorsing the same upon the surgeon's certificate.

All the preceding sections apply only to the enrolled militia.

Active militia to consist of volunteers, and to be first called into service.

SECT. 13. The active militia shall be composed of volunteers; and in case of war, invasion, the prevention of invasion, the suppression of riots, and to aid civil officers in the execution of the laws of the Commonwealth, shall first be ordered into service.

Number of companies. Present companies to reorganize.

SECT. 14. The number of companies of the volunteer militia shall be one hundred of infantry, to be reduced as herein provided, two of cadets, six of cavalry and five of light artillery, and shall be apportioned among the counties according to population. The volunteer companies, however, now organized, shall be retained: *provided*, they shall reorganize under the provisions of this act: and *provided*, that no county in the Commonwealth shall, by reason thereof, be deprived of the right and privilege of enlisting and organizing its proportion of the volunteer force under the provisions of this act. And the commander-in-chief shall have full power and authority, at any time hereafter, to disband any company or companies now organized, whenever, in his judgment, it shall be necessary or expedient, in order to give to each county its just proportion of the organized militia.

Commander-in-chief shall have power to disband companies.

Infantry companies to be reduced to eighty.

The number of companies of infantry shall be reduced gradually to eighty by disbandment for any cause provided in this act, but no company shall be disbanded without such cause existing.

Maximum of cavalry and artillery shall be the same as that established by War Department or Congress.

The maximum number of commissioned officers, non-commissioned officers, musicians, farriers, artificers, wagoners and privates of said companies of cavalry and light artillery respectively, and the number and rank of the officers and non-commissioned officers of said companies of infantry, shall be the same as that now or hereafter established by the war department, or the congress of the United

States, for the arms of the service to which such companies severally belong. The maximum number of commissioned officers, non-commissioned officers, musicians and privates of said companies of infantry shall be sixty-four, and the minimum number forty-eight, except as provided in the next section.

Maximum of infantry sixty-four, and minimum forty-eight.

Petitions for organizing volunteer companies may be granted by the commander-in-chief. No new company, however, shall be organized if thereby the whole force shall exceed five thousand officers and men. When a county does not raise its quota, the commander-in-chief may grant petitions to complete the prescribed number in other counties.

Whole force not to exceed 5,000.

SECT. 15. Whenever a volunteer company is formed, the members thereof shall sign an enlistment roll issued from the office of the adjutant-general; but no election of officers shall be ordered in a company hereafter organized, unless at least fifty men have been enlisted therein. Upon the enlistment of that number, and notification given to the commander-in-chief by one or more petitioners for the company, attested by the mayor and aldermen, or selectmen, an election of officers may be ordered; and if there is no officer of the volunteer militia conveniently located to preside at such election, the commander-in-chief may issue an order for that purpose to one or more of the selectmen or mayor and aldermen of the place where a majority of the petitioners reside. And after such election has taken place, the company shall be attached to a regiment or battalion of infantry, when it shall be mustered into the service of the Commonwealth upon said rolls, under oath, by the mustering officer of the regiment or battalion; and if a company of artillery or cavalry, by any mustering officer to be designated by the adjutant-general. Companies now in the service shall at once reorganize under the provisions of this act, by their members signing proper enlist-

Members of company to sign an enlistment roll.

Election of officers.

Companies now in service to reorganize and

be mustered in. ment rolls and being mustered into the service of the Commonwealth, but such companies need not

Companies not re-organizing on or before August 1, 1873, to be disbanded.

hold new elections of officers upon reorganization, the officers now in commission being retained unless discharged for some cause as provided in section forty-four. Such companies not reorganizing as herein provided, on or before the first day of August, eighteen hundred and seventy-three, shall be disbanded by order of the commander-in-chief. But for the purposes of such reorganization thirty-five shall be considered the minimum of infantry companies until the first day of May, eighteen hundred and seventy-four, when the minimum shall be as provided in the preceding section.

Enlisted men to be mustered in for three years.

SECT. 16. Non-commissioned officers and privates shall enlist and be mustered in for a term of three years, and shall not be discharged during that time except as provided in section one hundred and fifty. Muster-in rolls shall be made in triplicate, one of which shall be retained at the headquarters of the regiment by the mustering officer, the original shall be forwarded to the adjutant-general's office, within ten days from any muster of men, and one roll shall be retained by the company commander.

Muster-in rolls to be made in triplicate.

SECT. 17. No officer or soldier shall be liable to jury duty while in the active militia service.

Officers of the militia.

SECT. 18. The militia, under the command-in-chief of the governor of the Commonwealth, shall be organized as follows:—The staff of the commander-in-chief shall consist of an adjutant-general, who shall be the chief of the staff with the rank of major-general, and may be also the inspector-general of the militia; a quartermaster-general, surgeon-general and judge-advocate-general, each with the rank of brigadier-general; and four aides-de-camp, each with the rank of colonel, and such additional officers of the general staff as the public service may require, with such rank as the commander-in-chief may designate; and if the good of the service demands, the office of inspector-

general may be separated from that of adjutant-general, but in such case the rank of the inspector-general shall be that of brigadier-general.

In times of peace the duties of quartermaster-general shall be performed by the adjutant-general. Quartermaster-general.

The quartermaster-general shall also be chief of ordnance and commissary-general of subsistence. Commissary-general.

To each division there shall be one major-general, whose staff shall consist of an assistant-adjutant-general, who shall also be chief of staff, with the rank of colonel; one assistant-inspector-general, with the rank of lieutenant-colonel; one medical-director, who shall be a surgeon and shall have the rank of colonel; one assistant-quartermaster, with the rank of lieutenant-colonel; two aides-de-camp, one engineer of division, and one judge-advocate, who shall be a justice of the peace, each with the rank of major. Officers of division.

To each brigade there shall be one brigadier-general, whose staff shall consist of one assistant-adjutant-general, with the rank of lieutenant-colonel; a medical director of brigade, with rank of lieutenant-colonel; one assistant-inspector-general, who shall be brigade mustering officer, with rank of major; one assistant-quartermaster, one aide-de-camp, one engineer of brigade, and one judge-advocate, who shall be a justice of the peace, and one provost-marshal, each with the rank of captain. Officers of brigade.

To each regiment there shall be one colonel, one lieutenant-colonel, and one major; also one adjutant, one regimental quartermaster, and one regimental mustering officer, who shall be regimental paymaster, each with the rank of first lieutenant; one regimental surgeon, with the rank of major; one regimental chaplain, to be borne on the field and staff-roll next after the surgeon; one regimental assistant-surgeon, with the rank of first lieutenant; one sergeant-major, one quartermaster-sergeant, one commissary-sergeant, one hospital steward, and one drum-major. Officers of regiment.

The governor shall if the emergency exists for increasing the number of batteries of light artillery, organize them into a regiment on the basis of a regiment of artillery of the United States army.

Officers of  
battalion.

To each separate battalion there shall be one major; also one adjutant, and one battalion-quartermaster, and one battalion mustering officer who shall be battalion paymaster, each with the rank of first lieutenant; one surgeon with the rank of major; one sergeant-major, one quartermaster-sergeant, and one hospital-steward. The governor may commission a lieutenant-colonel duly elected, in addition to the officers allowed to a separate battalion.

Section twenty-three of chapter two of the General Statutes shall not apply to any officer to be appointed under the provisions of this act.

Officers of  
cadet com-  
panies.

To every company there shall be one clerk. To each of the companies of cadets in Boston and Salem, there shall be one commanding officer with the rank of lieutenant-colonel, one major, one surgeon with the rank of major, one captain, who shall in addition to his other duties be paymaster; one adjutant and one quartermaster, each with the rank of first lieutenant; one sergeant-major, one quartermaster-sergeant, one hospital steward and such number of company officers not exceeding six first lieutenants and four second lieutenants, together with such number of non-commissioned officers, musicians and privates, as the commander-in-chief may from time to time deem expedient for instruction in the school of the battalion. These companies of cadets shall be instructed, armed and equipped, and receive the same compensation and allowances as battalions of infantry; they may be attached to the same or to separate divisions, or remain unattached as the commander-in-chief shall direct.

Captain to  
be pay-  
master.

Staff offi-  
cers of com-  
panies of  
cavalry and

Companies of cavalry and artillery when attached to brigades, as provided in the succeeding section, shall be entitled to an adjutant and one

assistant-surgeon each, with the rank of first lieutenant, to be appointed by the commanding officers of said companies respectively, and commissioned by the commander-in-chief, and to hold their commissions, as other staff officers now do, or until the companies to which they are attached are organized into battalions or regiments of the same arm; and an adjutant and assistant surgeon so appointed and commissioned shall receive the same compensation as is allowed to other officers of such companies; such companies shall also be allowed a quartermaster-sergeant and a commissary-sergeant, who shall be paid as non-commissioned staff officers of regiments.

artillery  
when at-  
tached to  
brigades.

SECT. 19. The commander-in-chief may arrange the volunteer militia, when they exist in sufficient numbers and are conveniently located, into divisions, brigades, regiments and battalions, conformably to the laws of the United States, and make such alterations as from time to time may be necessary. Each division, brigade, regiment and battalion shall be numbered at the formation thereof, and a record thereof made in the office of the adjutant-general.

Volunteer  
militia to be  
arranged  
into divi-  
sions, bri-  
gades, &c.,  
and num-  
bered.

Companies of cavalry and artillery inconveniently located for such organization, may be attached to such brigades as the commander-in-chief shall order.

Companies attached to divisions or brigades, and not to regiments, shall, until otherwise organized, be subject to the immediate orders of the commanders of such divisions or brigades, who shall receive the returns and orders, have the authority and perform the duties, with regard to such companies, which are prescribed for the commanders of regiments, and battalions with regard to their companies.

SECT. 20. The officers of the line of the militia shall be elected as follows:—Major-generals, by the senate and house of representatives, each having a negative upon the other. Brigadier-generals,

Officers of  
the line to be  
elected.  
Major-  
generals.

Brigadier-  
generals.  
Field offi-  
cers.

Captains  
and subal-  
terns.

No officer  
under  
major-gen'l  
to be com-  
missioned  
till approv'd  
by examin-  
ing board.

Brigade  
commander  
may order  
any officer  
to appear  
before said  
board.

Officers  
elected to  
appear be-  
fore an ex-  
amining  
board.

Staff offi-  
cers, how  
appointed.

by the written votes of the field officers of the respective brigades. Field officers of regiments and battalions, by the written votes of the captains and subalterns of the companies of the respective regiments or battalions. Captains and subalterns of companies, by the written votes of the non-commissioned officers and privates of the respective companies. But no officer, under major-generals, so elected, shall be commissioned for a period beyond thirty days till he shall be approved by an examining board as provided in the following section. And any regimental commander, with the approval of the brigade commander, may direct any officer under him already in commission, or the commander-in-chief may order any officer below the rank of major-general to appear before said board, and if such officer cannot pass said board, his commission shall be considered as vacated on the filing of the proper certificate of said board with the adjutant-general.

SECT. 21. All officers elected as provided in the preceding section, shall at once, upon the receipt of the conditional commission, as therein provided, appear before an examining board to consist of the judge-advocate-general and two persons well qualified as to military matters, to be designated by the commander-in-chief. The board shall examine the candidate for a full commission as to his military and general qualifications, and if in their opinion he is duly qualified, the fact shall be properly certified, and he be entitled to a full commission, which shall be issued forthwith by his excellency the governor.

SECT. 22. The staff officers of the militia shall be appointed in manner following:—The staff of the commander-in-chief by the commander-in-chief; the staff of a major-general commanding a division, by the major-general; the staff of a brigade commander by the brigadier-general commanding the brigade; the regimental staff by the colonel of the regiment; the battalion staff and the staff officers



of the cadet companies by their respective commanding officers. No surgeon or assistant-surgeon shall be commissioned until he shall have furnished satisfactory evidence to the commander-in-chief that he is competent to perform the duties of his office.

Surgeon to furnish evidence of competency.

SECT. 23. The non-commissioned staff shall be appointed in manner following:—That of a regiment by the commander of a regiment; that of a battalion and of the companies of cadets by their respective commanders. Non-commissioned officers of companies, by the respective captains, who shall forthwith return the same in writing to the commanding officer of the regiment or battalion. Clerks, by the commanding officers of the respective companies.

Non-commissioned staff officers, how appointed.

Every non-commissioned officer's warrant shall be given and signed by the commanding officer of his regiment or battalion. Clerks shall have their appointments certified on the back of their warrants by the commanding officers of their respective companies.

Clerks of companies.

In case no one will accept the office of clerk of company, the commanding officer of the company may detail a member to act as such, but not for a period exceeding three months. In such cases the records shall be under the direct supervision of the commander.

SECT. 24. Commissioned officers shall take rank according to the date of their commissions. When two of the same grade bear an even date, the rank shall be determined by lot drawn before the commander of the division, brigade, regiment, battalion, company or detachment. The day of the appointment of an officer shall be expressed in his commission, and considered as the date thereof. When he is transferred to another corps or station of the same grade, the date of the original appointment shall be expressed and considered the date of his commission.

Officers to take rank according to date of commission.

When an office is vacant, the officer next in rank shall command.

SECT. 25. When the office of major-general, brigadier-general, colonel, lieutenant-colonel, major or captain is vacant, or such officer is sick or absent, the officer next in rank shall command the division, brigade, regiment, battalion or company, until the vacancy is supplied.

If a company is without officers, an officer to be detailed to command it.

SECT. 26. When a company is first enrolled, and an election of officers is ordered, if such company neglects or refuses to elect any officer, or the persons elected shall not accept or be commissioned, or if from any cause the company be without officers, the commander of the regiment or battalion to which it belongs shall detail some officer of the staff or line of the regiment to train and discipline said company until some officer is elected or appointed by the commander-in-chief. Such officer shall have the same power, and be subject to the same liabilities, as if he were captain of said company; shall keep the records of the company, and prosecute for all fines and forfeitures, in like manner as a company commander might do; and all meetings of such company shall be notified as provided in section ninety-one.

Major-generals to be notified of their election.

SECT. 27. Major-generals shall be notified of their election by the secretary of the Commonwealth, and, unless within thirty days after such notice they signify to the secretary their acceptance of office, shall be taken to have refused the same.

Major-generals to order elections to fill vacancies.

SECT. 28. Major-generals of division shall order elections to fill all vacancies which occur in their respective divisions, in the office of brigadier-general, field officer, captain or subaltern. Such elections shall be held at the place most convenient for the majority of the electors, and shall be ordered throughout each division at least once in each year; the elections of company officers first, and those of field officers next.

Electors to have four days notice. penalty for absence.

SECT. 29. Electors shall be notified of elections at least four days previously thereto. A non-commissioned officer or private unnecessarily absent from company election, shall forfeit one dollar, to

be recovered on complaint of the company commander, and he shall also be liable to punishment for neglect of duty.

SECT. 30. Officers ordering elections may preside, or detail some officers of suitable rank to preside, and in case no officer of sufficient rank resides within the county where such election is to be held, the chairman of the selectmen of the town in which such company is organized may preside at such election.

Presiding  
officers at  
elections.

SECT. 31. A captain or staff officer of the rank of captain, may preside at the election of an officer of equal or inferior grade within the limits of his regiment or battalion; but no candidate for the vacancy shall preside at the election, except to adjourn the meeting if no proper officer appears to preside.

A captain  
may preside  
at election  
of captain or  
subaltern.

At all elections such presiding officer shall keep a record of the proceedings, and make return thereof to the commanding officer of the battalion, regiment, brigade or division, as may be proper. If the company is unattached, such return shall be made to the adjutant-general.

SECT. 32. The person who has a majority of the written votes of the electors present at a meeting duly notified shall be deemed elected, and the presiding officer shall forthwith notify him of his election, and make return thereof, or of neglect or refusal to elect, to the commander of the division. Every person so elected and notified, shall accept, if a brigadier-general or field officer, within ten days, or, if a company officer, within three days; otherwise he shall be taken to have refused. If before the meeting for the election of any officer is dissolved, the person chosen signifies to the presiding officer his refusal to accept, the same shall be recorded and make part of the return, and the electors shall proceed to another election. Elections may be adjourned not exceeding twice, and each adjournment for a period not exceeding two days; but no election shall be legal unless it is notified in

Officers to  
be elected  
by a major-  
ity vote.

Elections  
may be  
adjourned

the manner prescribed in section twenty-nine, or at any adjournment of a meeting so notified, not exceeding four days.

The roster of the brigade, regiment or battalion, or the roll of the company, as the case may be, shall be produced at such elections, by the person having the legal custody thereof.

Return of elections to be made to the adjutant-general within three days.

If electors neglect to fill vacancies commander-in-chief may appoint.

SECT. 33. The presiding officer at any election shall make a certified return of such election, within three days thereafter, to the adjutant-general, for the information of the commander-in-chief.

Company neglecting to fill vacancies may be disbanded.

SECT. 34. When the electors neglect or refuse to elect to fill a vacancy, the commander-in-chief shall appoint a suitable person. The commanding officer of the division shall return all elections, and refusals or neglect to elect, to the commander-in-chief, and unless he is notified by the commander-in-chief of his intention to make an appointment, he may, if necessary, order a new election.

Acceptance of an office to vacate any before held.

SECT. 35. If a company is without commissioned officers, and, having been twice ordered to fill vacancies, neglects or refuses to fill them, such company shall be forthwith disbanded by the commander-in-chief.

Transmission of commissions.

SECT. 36. When an officer holding a military commission is elected or appointed to another office in the militia, and accepts the same, such acceptance shall constitute a part of the return of the presiding officer, and shall vacate the office previously held, but such officer may continue to serve until his successor is qualified in his stead.

Upon non-acceptance new election to be ordered.

SECT. 37. Commissions shall be transmitted to the commanding officers of divisions, and by them through the proper officers, to the officers elect.

SECT. 38. When a person elected or appointed to an office refuses to accept his commission or qualify at the time of acceptance, the major-general shall certify the fact on the back thereof and return it to the adjutant-general; and if the office is elective a new election shall be ordered.

SECT. 39. No officer or soldier shall be arrested on civil process while going to, remaining at, or returning from a place where he is ordered to attend for election of officers or military duty. Soldier on duty not to be arrested on civil process.

SECT. 40. Every commissioned officer, before he enters on the duties of his office or exercises any command, shall take and subscribe before a justice of the peace, or general or field officer who has previously taken and subscribed them himself, the following oaths and declarations:— Officers to be sworn.

“I, A B, do solemnly swear that I will bear true faith and allegiance to the Commonwealth of Massachusetts, and will support the constitution thereof. So help me, God.” Form of oath.

“I, A B, do solemnly swear and affirm, that I will faithfully and impartially discharge and perform all the duties incumbent on me as \_\_\_\_\_, according to the best of my abilities and understanding, agreeably to the rules and regulations of the constitution, and the laws of the Commonwealth. So help me, God.”

“I, A B, do solemnly swear that I will support the constitution of the United States. So help me, God.”

And on the back of every commission the following certificate shall be printed and signed by the person before whom such officer is qualified:—

“This may certify that A B, commissioned as within on this \_\_\_\_\_ day of \_\_\_\_\_, A. D. \_\_\_\_\_, personally appeared and took and subscribed the oaths required by the constitution and laws of this Commonwealth and a law of the United States, to qualify him to discharge the duties of his office. Certificate of qualification.

Before me,

”

SECT. 41. Every clerk of a company, before he enters upon his duties, shall take the following oath before the commanding officer of the company to which he belongs, viz.:— Clerk to be sworn.

“I, A B, do solemnly swear that I will faithfully and impartially perform all the duties incumbent on me, as clerk of the company to which I belong, according to the best of my abilities and understanding. So help me, God.” Form of oath.

**Certificate.**

The commander of such company shall, at the time of administering the oath, certify on the back of the warrant of the sergeant appointed to be clerk that he was duly qualified by taking the oath required by law.

**Discharge of officer upon his own request.**

SECT. 42. When an officer requests in writing his discharge from office, with the approval of the commanders of the regiment or battalion, brigade and division to which he belongs, the commander-in-chief may discharge him. If such officer belong to an unattached company he may be discharged in the same manner with the approval of the adjutant-general.

**Resignations not to be approved unless reasons are satisfactory.**

SECT. 43. No commanding officer shall approve a resignation under the preceding section, unless the reasons for such resignation are urgent and proved to his satisfaction; and the rolls, orderly books, roster documents, and all other military property belonging to the Commonwealth in the custody of the officer resigning shall, before his discharge is delivered to him, be deposited with the officer having a right to the custody of the same.

If an officer unreasonably refuses to approve an application for discharge, and it is so made to appear to the commanders above him, they may approve the same, and the commander-in-chief may discharge the applicant.

**Officers may be discharged by the commander-in-chief in certain cases.**

SECT. 44. No officer, other than a staff officer appointed by the commander-in-chief, shall be discharged by the commander-in-chief, unless upon his own request, except as follows: When it appears to the commander-in-chief that he has become unable or unfit to discharge the duties of his office, or to exercise proper authority over his inferior officers and soldiers, or that he has been convicted of an infamous crime; when the commander of his brigade certifies that he has, either before or after receiving his commission, removed his residence out of the bounds of his command to so great distance that in the opinion of such commanding officer it is inconvenient to exercise his command;

when such commander certifies that he has been absent from his command more than one year without leave ; upon address of both houses of the legislature to the governor ; upon sentence of competent military tribunal, after trial according to law ; when the corps to which he belongs is disbanded ; or when it shall appear that such officer has heretofore been dishonorably discharged from the service of the United States or the militia of this Commonwealth, or fails to pass a successful examination before the board provided for in section twenty-one, in which cases he may be so discharged ; and all staff officers may be discharged upon the request in writing of their commanding officers, by the commander-in-chief. Every officer except when under arrest, shall perform the duties of his office until he is discharged.

SECT. 45. When an officer accepts an appointment in the army or navy of the United States, his office shall thereby become vacant ; and if, after accepting such appointment, he exercises any of the powers and authority of such office, he shall forfeit not exceeding three hundred dollars.

Discharge  
by appointment  
in the  
United  
States army  
or navy.

SECT. 46. The commissions of staff officers appointed by any other officer than the commander-in-chief shall expire as soon as the successor of such appointing officer is commissioned. Staff officers appointed by the commander-in-chief shall hold their offices for one year and until their successors are appointed and qualified, but may be removed at any time by the commander-in-chief.

Tenure of  
office of staff  
officers.

SECT. 47. Officers under arrest shall not resign, but shall be suspended from exercising the duties of office.

Officers  
under arrest  
not to re-  
sign.

SECT. 48. A non-commissioned officer or clerk of a company may resign his office to the commanding officer of his company, who may accept such resignation ; non-commissioned officers of companies may be reduced to the ranks by the company commanders for proper cause, on approval of the commander of the regiment or battalion.

Resignation  
of non-com-  
missioned  
officers.

Bands for  
regiments,  
battalions  
and unat-  
tached com-  
panies.

SECT. 49. The commander of a regiment, battalion or unattached company, may raise by voluntary enlistment, and warrant and organize, within the limits of his command, to be under his direction and command at encampment, or at any parade ordered by the commander-in-chief, a band of musicians, not to exceed eighteen, inclusive of a master and deputy-master. The master, and in his absence the deputy-master, shall teach and command the band and issue all orders directed by such commander. Each member of the band shall keep himself provided with such uniform as may be directed by the commander-in-chief, and such instrument as the commander of his regiment or battalion prescribes, under penalty for each neglect, or deficiency, or for misconduct, of dismissal from the band by such commander, and of not less than ten nor more than twenty dollars, to be recovered on complaint by the adjutant or company commander. Members of bands need not be mustered in as provided for enlisted men, unless by special orders of the commander-in-chief.

Adjutant-  
general to  
distribute  
all orders  
from the  
commander-  
in-chief.

SECT. 50. The adjutant-general shall distribute all orders from the commander-in-chief; attend all public reviews when the commander-in-chief shall review the militia or any part thereof; obey all orders from him relative to carrying into execution and perfecting the system of military discipline established by the laws of the state and of the United States; furnish blank forms of the different returns and rolls that may be required, and explain the principles on which they should be made; prescribe forms of oath for muster-in of men; distribute all books required to be furnished at the public expense; receive from the several officers of the different corps throughout the state returns of the militia under their command, reporting the actual condition of their uniforms, arms, accoutrements and ammunition, their delinquencies and every other thing which relates to the general advancement of good order and discipline, all of

Furnish  
blank  
forms.  
Prescribe  
forms of  
oath for  
muster-in.



which the several officers of the divisions, brigades and regiments are hereby required to make in the usual manner, so that the adjutant-general may be furnished therewith; and from all said returns he shall make proper abstracts and lay the same annually before the commander-in-chief; and he shall annually, on or before the first Monday in January, make a return in duplicate of the militia of the state, with the condition of their uniforms, arms, accoutrements and ammunition, according to such directions as he may receive from the secretary of war of the United States, one copy of which he shall deliver to the commander-in-chief, and the other of which he shall transmit to the president of the United States.

To make an annual report to the commander-in-chief.

SECT. 51. The quartermaster-general, under the direction and supervision of the commander-in-chief, shall purchase and issue all ordnance stores, artillery, arms and accoutrements, clothing, camp equipage and military stores generally, except such as are expressly directed by law to be purchased by other officers. He shall, under the orders of the commander-in-chief, procure and provide means of transport for the militia, and for all its implements, munitions of war and military supplies, and shall be the keeper of the public magazines and of all military property of the Commonwealth, excepting such as is by law expressly intrusted to the keeping of other officers. He shall give bond to the state in the penal sum of twenty thousand dollars, with two sureties at least, to be approved by the governor and council, conditioned faithfully to discharge the duties of his office; to use all necessary diligence and care in the safe-keeping of military stores and property of the Commonwealth committed to his custody; to account for the same, and deliver over to his successor, or to any other person authorized to receive the same, such stores and property. And any other officer to whom any arms, equipments, stores or other property of the Commonwealth shall at any time be issued, may be

Quartermaster-general to purchase and issue ordnance stores and other military property.

To be keeper of the public magazines, &c.

To give bond.

Any other officer required to give bonds.

required to give a bond to the satisfaction of the governor and council, with the like condition.

Surgeon-general to purchase and issue medical supplies.

SECT. 52. The surgeon-general, under the direction and supervision of the commander-in-chief, shall purchase and issue all medical, surgical and hospital supplies, and perform all such other duties appertaining to his office as the commander-in-chief shall from time to time direct.

Surgeons of brigades, regiments, battalions or other organizations shall, after each tour of duty, and within ten days thereof, report to the surgeon-general, through proper channels, of all that pertains to their office which relates to such duty.

Adjutant-general, quartermaster-general and surgeon-general to render yearly accounts.

SECT. 53. The adjutant-general, quartermaster-general and surgeon-general shall account as often as may be required by the commander-in-chief, and at least once yearly, to the commander-in-chief, in such manner as he shall prescribe, for all property which shall have passed through their hands, or the hands of the subordinate officers of their respective departments, or that shall be in their care or possession, and for all moneys which they shall expend in discharging their respective duties; and they shall annually, in January, lay before the auditor accounts with vouchers of their expenditures during the previous year.

Adjutant-general, &c., not to be interested in purchase of articles for their departments.

SECT. 54. Neither the adjutant-general, quartermaster-general or surgeon-general, nor any assistant of either of them, nor any subordinate officer of their departments, shall be concerned, directly or indirectly, in the purchase or sale of any article intended for, making a part of, or appertaining to their respective departments, except for and on account of the Commonwealth, nor shall they or either of them take or supply to his or their own use any gain or emolument, for negotiating or transacting any business in their respective departments, other than what is or may be allowed by law.

Duties of quartermaster-general.

SECT. 55. When the service will permit, the commander-in-chief may require the duties imposed

upon the quartermaster-general by this act to be performed by any member of his staff, who shall in that case give a bond to the state in like manner as is required of the quartermaster-general.

eral may be performed by another member of staff.

The inspector-general, or some assistant-inspector-general detailed by the commander-in-chief, shall twice in each year, and oftener if deemed necessary, carefully inspect all the state property in the possession of the militia.

Property in hands of militia to be inspected biennially.

SECT. 56. All commissioned officers shall provide themselves with such uniforms and arms complete as the commander-in-chief shall prescribe, subject to such restrictions, limitations and alterations as he may order.

Officers to provide themselves with uniforms and arms.

Every officer shall hold his uniform, arms and accoutrements, required by law, free from all suits, distresses, executions or sales, for debt or payment of taxes.

SECT. 57. Every company of cavalry, artillery, cadets and infantry duly organized under the militia laws of the Commonwealth, shall be furnished, at the expense of the Commonwealth, with such uniforms, arms and equipments as are required for the performance of military duty in the manner prescribed by the provisions of this act, upon the written requisition of the commanding officer of such companies respectively, approved by the regimental commander.

Companies to be supplied with uniforms, &c.

SECT. 58. Each arm of the service shall be uniformed by a regulation uniform to be prescribed by the governor and council.

Uniform to be prescribed by the governor and council.

No company now in the service shall be uniformed as herein provided, until it shall be reorganized on the basis of this act as provided in section fifteen, and no uniforms shall be issued to such companies till those now in use shall have been inspected and condemned by the assistant inspector-general and assistant quartermaster of the brigade to which such company belongs; such inspection and condemnation being subject to the approval of

the brigade commander and of the commander-in-chief.

Uniforms not to be issued until those in use are condemned.

SECT. 59. Uniforms shall not be issued hereafter to any company, except new organizations, till those in use are condemned as provided in preceding section.

Uniforms, &c., to continue to be the property of the Commonwealth.

SECT. 60. The uniforms, arms and equipments so furnished shall remain and continue to be the property of the Commonwealth, to be used for military purposes only; and such as shall not have been properly expended in such use, shall be returned, when called for by proper authority; or if the same is wilfully or negligently wasted or destroyed by an officer or company, the commander-in-chief, may, upon satisfactory evidence to that effect, dishonorably discharge the officer and disband the company.

Uniforms to be turned over to the regimental quartermaster when company is disbanded.

SECT. 61. Any militia company which has been uniformed under the provisions of chapter three hundred and thirty-two of the acts of the year one thousand eight hundred and sixty-nine, or under this act, and which shall hereafter be disbanded, shall turn its uniforms over to the quartermaster of the regiment to which the disbanded company is attached; such uniforms to be held by the quartermaster, subject to the direction of the quartermaster-general for the use of any company which may be organized to take the place of the disbanded company, or for the supply of recruits to any companies in the service of the state; but if such uniforms are inspected and condemned as provided in section fifty-eight, they may be sold by the quartermaster-general, and the proceeds paid into the treasury of the Commonwealth.

Regiments, &c., may adopt any other uniform at their own expense, with the approval of the commander-in-chief.

Regiments, battalions, or unattached companies, may, however, adopt any other uniform than that prescribed by the governor and council, if they see fit, but at their own expense; such uniforms shall be approved by a majority of the commissioned officers of such organizations and by the commander-in-chief, but such uniforms shall not be

worn by troops on duty, by order of the commander-in-chief, or at any other time except by his permission.

SECT. 62. Every commanding officer of a company, upon making a requisition upon the quartermaster-general or other officer charged with the custody of the military property of the Commonwealth, for the uniforms, arms and equipments required for the use of his company, shall furnish to the officer upon whom the requisition is made, a schedule of the articles of military property required, and no such uniforms, arms or equipments shall be issued to, or for the use of, any company, unless the said company shall have at least forty-eight officers, non-commissioned officers and privates actually belonging thereto, and duly enrolled and mustered for the performance of active duty.

Schedule of articles required to be furnished by the officer making requisition.

SECT. 63. Upon delivery of uniforms, arms and equipments, the officer receiving the same shall receipt therefor in duplicate in manner following, to wit:—

Receipt to be given by officer upon delivery of arms, &c.

"I, A B, (rank) of company \_\_\_\_\_, of the regiment, \_\_\_\_\_ brigade, \_\_\_\_\_ division (or unattached company, as the case may be), of the militia of Massachusetts, do hereby acknowledge that I have received of C D (adjutant-general, quartermaster-general or ordnance officer, as the case may be), the several articles of military property set forth in the schedule hereto annexed, to be used by said company for the performance of military duty in conformity with the laws of this Commonwealth, and for no other purpose."

SECT. 64. All arms, equipments and military property of every description, which shall be furnished to the several companies under the provisions of this act, shall be deposited in the armories of said companies respectively, for safe-keeping, and be used only for the performance of military duty according to law.

Military property furnished by the State to be deposited in armories.

SECT. 65. It shall be the duty of every officer, non-commissioned officer and soldier, to return to the armory or other place of deposit each article of

All articles received for use to be returned to

the armory  
within three  
days after  
tour of duty.

military property of the Commonwealth issued to and received by him for use in the military service, and not properly expended, within three days after such tour of duty, or forthwith upon order of his commanding officer. And the possession of any article of such property by the person to whom it was issued, not being in the armory or designated place of deposit, shall be deemed and taken to be *prima facie* evidence of embezzlement of such article of property by the person to whom it was issued, and he shall be liable to be punished therefor upon conviction, or judged as provided in section one hundred and sixty-five.

Every officer and soldier held personally responsible for articles of property delivered to them.

SECT. 66. Every officer, non-commissioned officer and soldier, to whom a uniform or other article of military property shall be delivered, in pursuance of the provisions of this act, shall be held personally responsible for its care, safe-keeping and return; he shall use the same for military parades only, and upon receiving a discharge or otherwise leaving the military service, or upon the written demand of his commanding officer, shall forthwith surrender and deliver up the said uniform, together with all other articles of military property that may be in his possession, to the said commanding officer, in as good order and condition as the same were at the time he received the same, reasonable use and ordinary wear thereof excepted.

Penalty for wilfully injuring military property of the State.

SECT. 67. Whoever shall wilfully or maliciously destroy, injure or deface any uniform or other article of military property belonging to the Commonwealth, or shall retain any property in violation of the provisions of the preceding section, shall be punished by a fine not exceeding double the amount of the value of such uniform or other property so injured, destroyed, defaced or retained, to be recovered on complaint of the commander of the company to which such delinquent belongs, as provided in section one hundred and sixty-five; and he shall be imprisoned in the house of correction until such

fine is paid, or until he shall be discharged therefrom by process of law.

SECT. 68. Whoever uses or wears, except upon public parades or by special permission of his commanding officer, any uniform or other article of military property, belonging to the Commonwealth, shall be punished by a fine not exceeding twenty dollars for every such offence, to be recovered in manner referred to in the preceding section.

Uniforms not to be used except upon parades.

Penalty.

SECT. 69. Any officer receiving public property for military use, shall be accountable for the articles so received by him, and shall not be honorably discharged from the service until he has returned to the adjutant-general a receipt from his successor in command, or a proper accounting officer, for the articles issued to him, in good order and condition, reasonable use and wear thereof excepted, or shown to the adjutant-general by satisfactory proof, that any article not so accounted has been properly expended in the service, or defaced, injured, lost or destroyed, without any default or neglect on his part; and if lost, or wilfully defaced or destroyed through the misconduct of any person, that reasonable efforts have been made by him to recover or prosecute for the same. And in addition he shall be liable to make good to the Commonwealth all such property so defaced, injured, destroyed or lost by any neglect or default on his part, and for the recovery of which he has made no reasonable effort, to be recovered in an action of tort, to be instituted by the judge-advocate of his division, by order of the adjutant-general, in the name of the Commonwealth.

Officer not to be honorably discharged until he has accounted for all articles received by him.

SECT. 70. Whenever any corps or detachment of the militia is ordered to perform any duty requiring the use thereof, the quartermaster-general shall deliver to the commanding officer of such corps or detachment, upon his requisition, duly approved, such tents, fixtures and other camp equipment, and such ammunition as may be necessary for the discharge of such duty; and each officer to

Camp equipment and ammunition furnished by the State.

whom such property is delivered, shall be responsible for the safe-keeping of the same, which shall not have been properly expended, and return said property to the quartermaster-general, when the duty shall have been performed for which the same was issued, together with a correct list of the same ; and it shall be the duty of every officer having property delivered to him on his requisition, or receiving the same, on the first day of December, annually, to make to the chief of the department from which such property shall have been issued, a full return of all property so received by him, and for which he is by law accountable.

Officer to make return on the first day of December.

SECT. 71. Each regiment and battalion shall be furnished by the state with the national and state colors, their staffs, belts and sockets, and the commander of such regiment or battalion shall be responsible for their safe-keeping.

Colors for regiments and battalions.

SECT. 72. Each company of militia shall be furnished with such instruments of music as the commander-in-chief shall order.

Musical instruments.

SECT. 73. Each commander of a brigade may make requisitions upon the quartermaster-general, or officer acting as such, in favor of the commanders of regiments, battalions and companies, for colors and instruments of music. Commanders of companies shall be responsible for the safe-keeping of the instruments delivered to them for the use of their companies.

Commander of brigade may make requisition for colors and instruments of music.

SECT. 74. Each company of the volunteer militia, on application of the commander thereof to the adjutant-general, and producing satisfactory evidence that a suitable armory or place of deposit is provided therefor, agreeably to section eighty-three, shall be furnished with such appropriate arms and equipments as shall be determined by the commander-in-chief.

Companies to be furnished with arms and equipments when armory has been provided.

SECT. 75. It shall be the duty of the commissioned officers of every company of the volunteer militia respectively to exercise the strictest care and vigilance for the preservation of the uniforms,

Officers to exercise care of property furnished to their companies.



arms, equipments and military property furnished to their several companies under the provisions of this act; and in case of any loss thereof or damage thereto, by reason of the wilful neglect or default of such officers, or either of them, to exercise such care and vigilance, he or they shall be held to make compensation therefor, to be recovered by an action of contract brought by the quartermaster-general against all or any of such officers; which action it shall be the duty of the judge-advocate of division, at the request of the quartermaster-general, to bring.

Loss to be accounted for.

SECT. 76. In case of the discharge or death of an officer, he or his legal representative shall be relieved from responsibility for the safe-keeping, preservation and return of the military property furnished to and in the possession of such officer by provisions of law, upon complying with the provisions of law relating to the accounting for public military property.

Relieved from responsibility upon accounting for property.

SECT. 77. Upon the disbandment of a volunteer company which has received uniforms, arms, equipments or equipage from the quartermaster-general, in accordance with the provisions of this act, the commissioned officers of such company shall be responsible for the safe return to the custody of the quartermaster-general of all public property in possession of said company; and for any loss or damage thereto compensation may be obtained in manner provided in section seventy-five.

When company is disbanded officers responsible for return of property.

SECT. 78. Each company of artillery shall be provided by the quartermaster-general with the battery of manœuvre prescribed for that arm by the war department of the United States; with caissons, harness, implements, laboratory and ordnance stores, which may, from time to time, be necessary for their complete equipment for the field, and, when target-practice is expedient in the opinion of the commander-in-chief, such quantity of ammunition annually as he deems necessary to be expended in experimental gunnery. The commissioned officers

Artillery to be furnished as prescribed by United States war department.

of each company shall be held accountable for the preservation of the pieces, apparatus and ammunition aforesaid, and for the proper expenditure of the ammunition.

Charges for horses, &c., when company is ordered out for duty.

SECT. 79. The commanding officer of such company, when it is ordered to march out of the city or town where the gun-house is situated, and on occasions of parade for experimental gunnery or camp duty, shall provide horses to draw the field-pieces and caissons, and present his account of the expense thereof, as provided in section one hundred and thirty-nine. On all other occasions, when ordered out by an officer of competent authority for camp or salute duty, the charges for horses, powder and necessary expenses, shall be defrayed by the quartermaster-general.

Books of tactics and army regulations.

SECT. 80. The commissioned and non-commissioned officers of the volunteer militia shall be furnished with such books of instruction in tactics and army regulations as the commander-in-chief shall deem expedient, which books shall continue to be the property of the Commonwealth, and shall be carefully kept and delivered by such commissioned and non-commissioned officers to their successors.

Military stores may be sold or exchanged.

SECT. 81. The commander-in-chief, with the advice and consent of the council, may sell or exchange, from time to time, such military stores belonging to the quartermaster-general's department as are found unserviceable or in a state of decay, or which they think it for the interest of the state to sell or exchange.

Arsenal to be visited by committee of the legislature.

SECT. 82. The committee of the legislature on the militia shall annually visit the arsenal or state camp-ground and storehouses, and make a thorough examination into the condition of the same, of the arms and munitions of war and other property of the state or general government deposited there, and report the condition of the arsenal and property to the legislature for that year.

Armories to be provided

SECT. 83. The mayor and aldermen and selectmen shall provide for each company of the volun-

teer militia within the limits of their respective cities or towns a suitable armory, for the deposit and safe-keeping of the arms, equipments, uniforms and other military property furnished it by the state, and for the purposes of drill, and shall also provide suitable places for the parade, target-practice and company-drill of the militia belonging to their respective cities and towns. They shall also provide for the headquarters of each regiment or battalion, a majority of the companies of which shall be within their respective limits, a suitable room for the keeping of books, the transaction of business and the instruction of officers. Cities and towns in which batteries are located are hereby authorized to raise money, by taxation or otherwise, for the purpose of erecting suitable armories. When a company is formed from different places, the location of such armory shall be determined by a majority of its members, subject to the approval of the adjutant-general. Armories provided for the militia shall not be used for any purpose whatever other than the legitimate uses of the companies occupying them, and the commander of any company who shall allow the armory of his company to be let for other than the use of his company, unless by approval of the commander-in-chief, shall be liable to a fine of two hundred dollars, to be recovered, on complaint, by the adjutant-general.

by cities and towns.

Regimental and battalion headquarters to be provided.

SECT. 84. The mayor and aldermen of cities and selectmen of towns shall annually, in October or November, transmit to the office of the adjutant-general a certificate, verified by the oath or affirmation of at least two of their board, showing the name of each company furnished with an armory, and of each regiment or battalion furnished with headquarters, the amount paid for the rent thereof, and stating that a majority of their board consider such armory or headquarters necessary for the use of such command, and that the rent charged therefor is fair and reasonable, according to the value of real estate in their place.

Amount paid for armory rent to be certified to the adjutant-general.

Claims for  
rent to be  
audited and  
paid.

SECT. 85. The adjutant-general shall annually examine all certificates so returned to this office, institute any inquiries he deems expedient relative thereto, and allow them in whole or in part, to an amount not exceeding six hundred dollars for one company of infantry, artillery or cavalry, and not exceeding three hundred dollars for each regimental or battalion headquarters. He shall, within ten days after such examination, file in the office of the auditor his certificate, stating the sums allowed, the name of the command for whose use each sum is allowed, and the place to which it belongs; and shall thereupon notify the mayor, aldermen or selectmen of the sum allowed to their place, which sum shall be paid upon the warrant of the governor to such mayor and aldermen or selectmen.

Penalty for  
false certifi-  
cate.

SECT. 86. A city or town receiving from the treasury of the Commonwealth, by reason of a false return or certificate, under section eighty-four, any money to which such place is not entitled, shall forfeit a sum not exceeding four times the amount of money so received.

Armory and  
arms may  
be examined  
at any time.

SECT. 87. The commander-in-chief may at any time detail an officer to examine any armory and report the condition thereof, and of the arms equipments and equipage therein deposited.

Distribution  
of orders.

SECT. 88. Orders from the commander-in-chief shall be distributed by the adjutant-general; division orders and brigade orders by their respective assistant adjutants-general; regimental and battalion orders by the adjutant; company orders by the clerk or by any non-commissioned officer or private when so required by the commanding officer. General, division, brigade, regimental and battalion orders may, in cases of emergency, be transmitted by telegraph; and all such orders so transmitted shall be deemed to have been legally transmitted within the meaning of this act. When any such order shall be transmitted by telegraph, a copy thereof shall be immediately forwarded by mail.

SECT. 89. When a commander orders out his company for military duty, or for election of officers, he shall order one or more of the non-commissioned officers or privates to notify the men belonging to the company to appear at the time and place appointed. Such non-commissioned officer or private shall give notice of such time and place to every person whom he is ordered to notify; if he fails so to do, he shall forfeit not less than twenty nor more than one hundred dollars, to be recovered on complaint of the commander of the company, as provided by law.

Notification of members of companies ordered out for duty.

SECT. 90. No notice shall be legal unless given by such non-commissioned officer or private to each man verbally, or by delivering to him in person or leaving at his usual place of abode a written or printed order signed by such officer or private, four days at least previous to the time appointed; but in case of invasion, insurrection, riot, or an unforeseen or sudden occasion, a verbal, written or printed notice, however short, shall be legal. When a company is paraded, the commanding officer may verbally notify the men to appear at a future day, not exceeding thirty days from the time of such parade, which shall be sufficient notice as respects the persons present; and all commanders of companies may on parade, read division, brigade or regimental orders, and notify the soldiers of their several commands to appear as by such orders required, which notice shall be a sufficient warning.

Notice to be given verbally or left at usual place of abode.

SECT. 91. When a company is without commissioned officers, the commander of the regiment or battalion to which it belongs, or the officer detailed by him to discipline the same as provided in section twenty-six, shall in writing order any non-commissioned officers or privates to notify the persons liable to do duty in such company, to appear for duty required by law, at the time and place mentioned in such order; and if a non-commissioned officer or private refuses or neglects so

Notification of companies without commissioned officers.

to notify, he shall forfeit not less than twenty nor more than one hundred dollars, to be recovered on complaint by the commander thereof.

Clerks of companies to record orders, &c.

SECT. 92. Clerks of companies shall record in the orderly book company orders and notifications; but such record shall not be necessary to the recovery of a penalty; and the records of clerks shall at all proper times be open to the inspection of members of the company.

System of discipline.

SECT. 93. The system of discipline and field-exercise ordered to be observed by the army of the United States, in the different corps, or such other system as may hereafter be directed for the militia by laws of the United States, shall be observed by the militia.

Annual parade for inspection on the last Wednesday in May, or on Decoration Day.

SECT. 94. The volunteer militia shall parade by companies, unless otherwise ordered, annually, on the last Wednesday in May, for inspection, company-drill and manœuvre,\* and also for target-practice, and for this purpose the quartermaster-general is hereby authorized to issue upon the requisition of the commanding officers of companies respectively the necessary ammunition. The commander-in-chief may, by general or special orders or regulations, direct that the parade in May of the volunteer militia, or of any portion thereof, be by companies, battalions, regiments or parts of regiments, as he may deem expedient, or as may be directed by the commanding officers of the respective divisions, brigades, regiments or battalions; and he may by general orders authorize regimental and battalion commanders, in their discretion, to order the May parade on Decoration Day, so called.

Elementary drill.

SECT. 95. The commanding officer of every regiment, battalion or detached company may order out the commissioned and non-commissioned officers under his command, for elementary drill, two separate days, between the middle of May and the middle of July in each year, at such place as he shall deem most convenient; and if the place of

any such commissioned or non-commissioned officer in any company shall be vacant from any cause, it shall be the duty of the commanding officer of such company to detail from the enlisted men under his command a number sufficient to make up the complement of commissioned and non-commissioned officers to which by law his company is entitled.

And each person so ordering and so ordered, that shall attend any such drill, shall receive for his service the sum of two dollars. Compensation.

SECT. 96. The amount to which each person is entitled as aforesaid, shall be certified to the adjutant-general, under oath, by the commanding officer of each regiment, battalion or detached company, and the same shall be paid from the treasury of the Commonwealth, as follows, viz.: That portion for commissioned officers, non-commissioned officers and enlisted men of companies, to the commanding officers thereof, and that portion for field and staff officers of regiments or battalions, to the commanding officers thereof respectively, to be by them paid over to the parties entitled thereto. Amount of compensation to be certified to the adjutant-general under oath.

SECT. 97. The commander of any regiment or battalion, whose companies are located within a radius of three miles, is authorized to assemble said companies or the officers thereof, for evening drill, instruction, inspection or other business, at such times as he may judge best for the promotion of discipline in his command; and commanders of all regiments, battalions or detached companies are authorized to order inspections whenever the good of the service demands, and evening drills by companies not exceeding once in two months, and neglect on the part of subordinate officers or enlisted men to appear accordingly shall be punishable as for disobedience of orders. Companies of regiment, located within a radius of three miles, may be ordered for evening drill, &c.

SECT. 98. Unless the commander-in-chief prescribes the time, place and manner of assembling the troops for the purposes declared in this section, each commander of division shall annually Encampments to be by brigades or regiments, unless other-

wise or-  
dered by  
commander-  
in-chief.

order an encampment of his division, by brigades or regiments, at some time between the middle of July and the middle of September. The orders for encampment by brigade shall be promulgated in the brigade thirty days before the time appointed for the encampment; the orders for encampment by regiment shall be promulgated in the regiment twenty days before such time. The place, and if no time is designated by the commander of division, the time of encampment shall be designated by the commander of the troops to be assembled, and regard shall always be had to the convenience, proximity and accommodation of the troops to be assembled; but no ground shall be occupied for an encampment in time of peace without the consent of the selectmen of the town, or mayor and aldermen of the city, where the encampment is to be made, unless by order of the commander-in-chief; such ground to be paid for by the state on contracts to be approved by the adjutant-general.

All encamp-  
ments less  
than by di-  
vision to be  
held at the  
State camp-  
ground.

State camp  
ground to  
be under  
care of ad-  
jutant or  
quartermas-  
ter-general.

In case of the purchase of a state camp-ground, as provided for in chapter two hundred and sixteen, acts of eighteen hundred and seventy-two, all encampments, less than division encampments, shall be held upon the same, unless otherwise directed by the commander-in-chief; said state camp-ground shall be under the care and control of the adjutant-general or quartermaster-general, and the expense of keeping it in repair and of storing and guarding the state property upon said ground, or of taking proper care of the arsenal and state property at Cambridge, shall be provided for in the annual appropriation for quartermaster's supplies.

Parade of  
more than a  
brigade.

SECT. 99. No larger body than a brigade shall be ordered to parade at the same time and place except by order of the commander-in-chief.

Encamp-  
ment to last  
five days.

SECT. 100. Each encampment shall last five days, and the troops shall be inspected, reviewed and thoroughly exercised, as companies, battalions or brigades, in the whole routine of camp and field duty.



SECT. 101. Each company and band roll-call shall be made during the term of encampment under the supervision and in the presence of a commissioned officer or band-master thereof; and each day the company commanders and band-masters shall provide the regimental paymaster with a sworn pay-roll of the men actually on duty that day in their respective commands; these rolls shall be verified by the paymaster by actual presence of the parties whose names appear thereon, and by their signatures either in his presence or of some staff officer.

Company and band-roll calls.

Sworn pay-roll to be furnished daily.

Rolls to be verified by paymaster.

SECT. 102. When a company without commissioned officers parades with other troops, the officer in command shall detail one or more commissioned officers present to command it, unless the officer detailed by the commander of the regiment to command it is present.

Officer to be detailed to command company without officers.

SECT. 103. The assistant inspectors-general, under the orders of their respective commanding officers, shall attend the annual encampments of the regiments and battalions in their brigades while encamped separately, and, while they are under arms, inspect their arms, uniforms, ammunition and accoutrements, and shall make report to the adjutant-general at the close of tour of duty, such reports being made through proper channels and consolidated by superior commands.

Assistant inspectors-general to attend encampments, inspect arms and report to the adjutant-general.

SECT. 104. By permission of the officer in chief command, and of their own immediate superiors, officers, privates and musicians may drill and manœuvre in camp in undress uniform or fatigue dress, and mounted officers may discharge their duties on foot.

Drill in camp in undress uniform.

SECT. 105. Every commanding officer, when on duty, may ascertain and fix necessary bounds and limits to his parade or encampment (not including a road so as to prevent passing), within which no spectator shall enter without leave from such commanding officer. Whoever intrudes within the limits of the parade or encampment, after being

Bound of parade may be fixed by commanding officer.

Punishment  
for intrusion.

forbidden, may be confined under guard during the time of parade or encampment, or a shorter time, at the discretion of the commanding officer; and whoever resists a sentry who attempts to put him or keep him out of such limits, may be arrested by order of the commanding officer, and carried before a judge-advocate or judge-advocate-general on duty at the encampment, or other court or justice having jurisdiction of the place, to be examined or tried upon complaint for such assault or disturbance or breach of the peace.

Not holden  
to duty on  
days of cer-  
tain elec-  
tions.

SECT. 106. No officer or soldier shall be holden to perform military duty except in case of invasion, insurrection, riot or tumult, made or threatened, or in obedience to the orders of the commander-in-chief, on a day appointed for a meeting in the town in which he resides for the election of governor, lieutenant-governor, senators, electors of president and vice-president of the United States, or representatives to congress or the general court; and an officer parading his company, or ordering it to parade contrary to the provisions of this section, shall, besides being liable to a trial before the military judge forfeit not less than fifty nor more than three hundred dollars.

Escort duty.

SECT. 107. The commander-in-chief may order out any portion of the militia for escort and other duties.

Companies  
may have  
volunteer  
parades.

SECT. 108. Nothing herein contained shall be construed to prevent any company from meeting for the purpose of drill, funeral or other escort, or a voluntary service, nor to impair the obligation arising under constitutional articles of agreement adopted by the company, so far as regards the members who have signed the same; but such articles of agreement, approved by the commander-in-chief, shall be valid and binding on all who have signed them, unless they are repugnant to law. But no parade or voluntary service shall be performed under arms or with state uniform, unless by approval of regimental or battalion commander, or,

if unattached, by the adjutant-general. And any military organization leaving the state without permission from the commander-in-chief, shall forthwith be disbanded. Volunteer companies shall have the right to own and keep personal property which shall belong to and be under the control of the active members of the company, and the commanding officer of any volunteer company may recover for the use of the company any debts or effects belonging to the company, or damages for the injury thereof, as provided in section one hundred and sixty-five, and no suit or complaint pending in his name shall be abated by his ceasing to be commanding officer of the company, but upon the motion of the commander succeeding him such commander shall be admitted to prosecute the suit or complaint in like manner and with like effect as if it had been originally commenced by him.

May own and keep personal property and be under their control.

SECT. 109. Any soldier quitting his guard, section, platoon or company, may be put and kept under guard by the commander of the company, regiment, or of the field, for a time not extending beyond the term of service for which he is then ordered.

Penalty for quitting guard or company.

SECT. 110. Soldiers in companies without officers, when ordered out to be trained and disciplined, shall, for absence, deficiency, misconduct or neglect, be liable to the fines prescribed for offences in other companies, to be recovered upon complaint of the officer so detailed.

Soldiers in companies without officers liable to fines.

SECT. 111. The assistant adjutants-general of each division and brigade, and the adjutant of each regiment, battalion or corps, shall constantly keep a correct roster of the command to which he belongs, and an orderly book in which he shall record orders received and issued.

Division and brigade rosters and orderly books to be kept.

SECT. 112. A fair and exact roll of each company shall be kept by the clerk, under the direction of the commander, with the state of the arms and equipments furnished to each man, in the form prescribed for the returns of the militia by the com-

Company rolls to be kept by the clerk under direction of the commander.

Commanders of companies to furnish mayor and aldermen or selectmen sworn copy of roll.

mander-in-chief. Such rolls shall be annually revised in the month of May, and corrected from time to time as the state of the company and alterations in it may require. The commander of each company shall annually, during said month of May, furnish the mayor and aldermen or selectmen of his city or town a sworn copy of such roll, for the purposes set forth in section seventeen of this act. The clerk of the ancient and honorable artillery company shall furnish annually, as provided herein, the mayor and aldermen of the city of Boston with sworn rolls of all active members belonging to the company.

Company orderly book to be kept by the clerk.

• SECT. 113. An orderly book shall also be kept in each company, by the clerk, under the direction of the commander, and the proceedings of the company, orders received and issued, and exact details of drafts and detachments shall be recorded therein. Fines and forfeitures, with the time when, and the offence, neglect, default or deficiency for which they were incurred, money collected by him or the company commander, with the names of the persons from whom collected, and all delinquencies and deficiencies, shall be recorded in said book, which shall not be alienated from the company, and shall always be open to the inspection of its members.

Fines and forfeitures to be recorded.

Commanders of companies to make triplicate returns on each day of encampment.

SECT. 114. At the conclusion of each tour of camp duty, commanders of companies shall make correct triplicate returns of their several companies, which shall certify the manner in which such company, on each of the days of encampment, performed the duties required by law. He shall deliver one of such returns to the inspecting officer on duty in camp, and the others to the commander of his regiment or battalion, who shall retain one and send the third direct to the adjutant-general within ten days after said tour of camp duty. The returns of companies attached to divisions or brigades, and not to regiments, shall be sent to the commanding officers of divisions or brigades, respectively, and

consolidated and transmitted by them to the adjutant-general.

SECT. 115. The master of every regimental, battalion or other band on duty with the militia shall, within ten days after a parade thereof, made under order of the commander of the regiment, battalion or unattached company to which such band belongs, make and transmit to the adjutant-general an alphabetical list of the men who appeared in uniform and performed duty on such day, the last return to be made on or before the tenth day of November; upon which the commanding officer to whom the band was ordered to report for duty, shall certify the manner in which said duty was performed.

Master of band to make return within ten days after a parade.

SECT. 116. On the last day of each tour of camp duty, commanders of regiments and battalions shall make correct certified rolls of the field and staff officers of their several commands on duty for each day, specifying the names, rank and duty done by each officer who appeared armed, uniformed and equipped on any day, and deliver the same to the inspecting officer of the camp, and every commanding officer of regiment or battalion shall, within ten days after each tour of camp duty, forward to his commander a consolidated return of his whole command.

Commanders of regiments to make rolls of field and staff officers.

SECT. 117. Assistant inspectors-general within twenty days after each tour of camp duty done by their respective brigades, or the regiments and battalions thereof, shall make and transmit to the commander of the brigade a correct return of such brigades, reporting therein the condition of the uniforms, arms, accoutrements and ammunition of the several corps, with such suggestions relating to the government of the militia and the advancement of order and discipline as in his judgment may be required.

Assistant inspectors-general to make return to commander of brigade.

SECT. 118. Commanders of brigades shall, within thirty days after each tour of camp duty performed by the troops under their respective

Commanders of brigades to transmit re-

turn to commanders of divisions. commands, transmit to the commanders of their divisions, a correct return of their respective brigades, as furnished by the assistant inspectors-general under the preceding section, and also in like manner make and transmit to the commander of division, a certified roll of the general, field and staff officers of their several brigades, specifying the rank of and duty done by each one who appeared uniformed and equipped and performed duty on any day. Commanders of divisions shall, within ten days after the receipt of such returns of brigades under their respective commands, transmit to the adjutant-general correct returns of the state of their divisions, as derived from such brigade returns.

Commanders of divisions to transmit returns to the adjutant-general.

SECT. 119. Commanders of divisions shall annually, on or before the first day of December, make and transmit to the adjutant-general a certified roll of the general, field and staff officers in their respective divisions, specifying the name, rank and duty done by each one who has appeared armed, uniformed and equipped, and performed duty on any day. The adjutant-general shall, on or before the twenty-fifth day of January in each year, make out a certified roll of the names of all general, field and staff officers that appear by the returns made to him under this and the three next preceding sections to be entitled to the pay under section one hundred and twenty-eight, and submit such roll with amounts due, to the auditor, and the governor shall draw his warrant on the treasury for such sums as may be necessary to pay such officers.

Commanders of divisions to transmit roll of general, field and staff officers.

Adjutant-general to submit roll of general, field and staff officers to auditor.

SECT. 120. When an invasion of or insurrection in the state is made or threatened, the commander-in-chief shall call upon the militia to repel or suppress the same; and may order out divisions, brigades, regiments, battalions or companies; or may order to be detached parts of companies thereof, or any number of men to be drafted therefrom, and may cause officers to be detailed, sufficient with

Militia may be called out to repel invasion and suppress insurrection.

those attached to the troops, to organize the forces. If such invasion or insurrection, or imminent danger thereof, in any part of the state, is so sudden that the commander-in-chief cannot be informed and his orders received and executed in season to resist or suppress the same, a commander of division in such part of the state may order out his division or any part thereof, as the commander-in-chief might do.

SECT. 121. When a draft from the militia is ordered, the non-commissioned officers and privates, except so many as offer to serve voluntarily, shall be drafted by lot from the company, and the officers regularly detailed from the roster.

Drafts and details of officers.

SECT. 122. If a company without officers is ordered to march, or a draft or detachment is ordered therefrom, the commander of the regiment or battalion shall detail an officer to command, who shall have the same authority to order them to appear, to command them in the field, or to make a draft or detachment therefrom, as the captain of such company would have, and shall be under the same responsibility.

If company without officers is called out an officer to be detailed to command.

SECT. 123. Every person so ordered out, detached or drafted, who does not appear according to law at the appointed time and place, or provide a substitute, or within twenty-four hours pay to the captain of his company, or officer to whom he is ordered to report, one hundred dollars, to be paid into the treasury of the Commonwealth, shall be taken to be a soldier absent without leave.

Penalty for neglecting to appear when ordered.

SECT. 124. The selectmen of a town and the mayor and aldermen of a city to which men so ordered out, detached or drafted belong, when required in writing by a commander of a regiment or detachment, shall provide carriages to attend them with further supplies of provisions and to carry necessary baggage, and provide necessary camp equipage and utensils, until notified by the commanding officer to desist; and shall present their accounts as provided in section one hundred

Selectmen, &c., to provide carriages to attend with supplies.

**Penalty.** and thirty-nine. For any neglect by such mayor and aldermen or selectmen, under this section, such city or town shall forfeit, to the use of the Commonwealth not less than twenty nor more than five hundred dollars. The officer to whom any articles above mentioned are delivered shall be responsible that care is taken of the same.

**Troops may be ordered out in case of riot.** SECT. 125. When there is in any county a tumult, riot, mob or a body of men acting together by force with attempt to commit a felony, or to offer violence to persons or property, or by force and violence to break and resist the laws of the Commonwealth, or when such tumult, riot or mob is threatened, and the fact is made to appear to the commander-in-chief, or the mayor of a city, or to a court of record sitting in said county, or if no such court is sitting therein, then to a justice of said court, or if no such justice is within the county, then to the sheriff thereof, the commander-in-chief may issue his order, or such mayor, court, justice or sheriff may issue a precept, directed to any commander of a division, brigade, regiment, battalion or company, directing him to order his command, or a part thereof (describing the kind and number of troops) to appear at a time and place therein specified, to aid the civil authority in suppressing such violence and supporting the laws, which precept, if issued by a court, shall be in substance as follows :—

**Form of precept.** ———, ss.

#### COMMONWEALTH OF MASSACHUSETTS.

L. S.

To *(insert the officer's title)* A B, commanding *(insert his command)*:

Whereas, it has been made to appear to our justices of our \_\_\_\_\_, now holden at \_\_\_\_\_, within and for the county of \_\_\_\_\_, that *(here state one or more of the causes above mentioned)*, in our county of \_\_\_\_\_, and that military force is necessary to aid the civil authority in suppressing the same; now therefore, we command you that you cause *(here state the number and*



*kind of troops required*), armed, equipped, and with ammunition, as the law directs, and with proper officers, either attached to the troops, or detailed by you, to parade at \_\_\_\_\_, on \_\_\_\_\_, then and there to obey such orders as may be given them, according to law. Hereof fail not at your peril, and have you there this writ, with your doings returned thereon.

Witness L S, Esq., at \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_

C D, Clerk.

And if the same is issued by a mayor, justice or sheriff, it shall be under his hand and seal, and otherwise varied to suit the circumstances of the case.

SECT. 126. The officer to whom the order of the commander-in-chief or such precept is directed, shall forthwith order the troops therein mentioned to parade at the time and place appointed. If he refuses or neglects to obey such order or precept, or if an officer neglects or refuses to obey an order issued in pursuance thereof, he shall be cashiered and punished by fine or imprisonment not exceeding six months, as a court-martial may adjudge. Any person neglecting or refusing to appear at the place of parade to obey an order issued in such case, or any person advising or endeavoring to persuade another to refuse or neglect to appear at such place, or to obey such order, shall forfeit to the use of the Commonwealth, five hundred dollars.

Penalty for refusing or neglecting to obey or der.

SECT. 127. Such troops shall appear at the time and place appointed, armed and equipped, and with ammunition as for inspection of arms, and shall obey and execute such orders as they may then and there receive according to law.

Troops to appear armed and equipped.

SECT. 128. General, field and commissioned staff officers, and commanders of batteries, shall receive for each day's duty in camp or under sections one hundred and seven and one hundred and twenty-five, or in visiting officially regimental or battalion encampments in their commands, six dollars, and such officers shall be entitled to five

Pay of general, field and commissioned staff officers.

**Pay of non-commissioned staff.** dollars per day for keeping and forage of horse, except when serving on special duty not requiring them to be mounted; non-commissioned staff officers, except non-commissioned staff officers of companies, shall receive three dollars a day; to be paid them from the state treasury, upon the warrant of the governor and council according to a pay-roll made up by the adjutant-general, as provided in section one hundred and nineteen.

**Pay of field and staff when directed to parade under provisions of sect. 94.** Whenever the commander-in-chief shall by general or special orders or regulations, direct that companies shall parade or drill by regiments or battalions instead of by companies, according to the provisions of section ninety-four of this act, such regimental or battalion field and staff officers shall be allowed and paid therefor the same compensation as is allowed them for other duty.

**Judge-advocate-general, salary of.** The judge-advocate-general shall receive an annual salary of fifteen hundred dollars, to be paid quarterly by the treasurer of the Commonwealth; and he shall be allowed an additional sum of five hundred dollars per annum, which shall be in full for mileage and all contingent expenses of his office, and shall be paid quarterly in same manner as provided for his salary.

**Allowance for mileage, &c.** Mustering officers and paymasters. Mustering officers and paymasters shall be allowed the pay of their rank for each day's service in the discharge of their special duties.

**Pay of assistant adjutants-general, adjutants, &c.** SECT. 129. Assistant adjutants-general of divisions and brigades, and adjutants of regiments or battalions, or of companies of cadets, of volunteer militia, shall receive twenty-five dollars annually, in addition to their pay as herein provided. Assistant inspectors-general shall receive six dollars a day and five cents a mile for travel to and from the place of inspection, for duties performed under section one hundred and three.

**Pay and mileage of assistant inspectors-general.**

**Pay of commissioned officers.** SECT. 130. Every other commissioned officer of the volunteer militia shall receive for each day's duty in camp or under sections ninety-four, one

hundred and seven and one hundred and twenty-five, three dollars and fifty cents.

Every non-commissioned officer and soldier shall receive for each day's duty in camp or under sections ninety-four, one hundred and seven and one hundred and twenty-five, two dollars and fifty cents.

Pay of  
non-com-  
missioned  
officers and  
soldiers.  
Allowance  
for travel.

There shall be allowed and paid to each officer and soldier in the militia, obliged by law to travel to an annual encampment, or to perform special duty, the actual expenses incurred by him for transportation, such expenses to be paid on sworn returns to be furnished by assistant adjutants-general and commanders of companies at same time and corresponding with returns called for in sections one hundred and one, one hundred and fourteen, one hundred and fifteen and one hundred and seventeen.

Every member of a band serving with the militia shall receive for services, in obedience to an order of his commander, at the rate of five dollars a day while on duty; and the bugler to a company of cavalry or artillery, shall receive five dollars a day. For the duty required to be performed on the last Wednesday in May, and for each day's duty in camp as required by the provisions of this act, and also for each day of special duty performed under the orders of the commander-in-chief, issued in pursuance of the provisions of section one hundred and seven, every mounted non-commissioned officer and every member of a mounted company or band shall receive five dollars a day in addition to the compensation herein before provided, which shall include keeping and forage for horses. Such sums shall be computed by the adjutant-general on the company and band pay-rolls, made out, certified and returned under sections one hundred and one, one hundred and fourteen and one hundred and fifteen.

Pay of  
members of  
bands.

Pay of  
mounted  
men.

After such computation of sums due companies and bands, the pay-rolls shall be transmitted at once to the respective paymasters of regiments and

Pay rolls to  
be transmit-  
ted to pay-  
masters.

battalions, who shall immediately notify commanders of companies and masters of bands that they are ready to pay their respective commands. These rolls, after computation of sums due on them, shall be laid before the auditor of the Commonwealth, and upon his approval the governor and council shall draw a warrant on the treasury for the respective amounts required by the several paymasters, and on receipt of the money on such warrant, the paymasters shall meet the several companies and bands in their respective armories or headquarters, and pay the members the amounts due them, taking proper vouchers in duplicate for such payment, and at once after paying all the troops in their respective commands, file with the treasurer of the Commonwealth an account of their payments with the duplicates of their vouchers; and such accounts shall be audited by the state auditor and the several paymasters held to account for any and all discrepancies which may be found to exist.

Paymasters  
to give bond.

Paymasters shall give bond in the penal sum of ten thousand dollars, with two sureties at least, to be approved by the governor and council, conditioned faithfully to discharge the duties of their office.

Rolls to be  
compared  
with mus-  
ter-in  
rolls, &c.

SECT. 131. The computation provided for in the preceding section to be made by the adjutant-general, shall be made from rolls required in sections one hundred and one, one hundred and fourteen and one hundred and fifteen, in connection or comparison with the muster-in rolls and last preceding muster pay-rolls of companies.

Compensation for-  
feited for de-  
fault in mak-  
ing returns.

SECT. 132. The compensation provided for commanders of companies shall be forfeited for default in making the returns required by sections one hundred and one, one hundred and fourteen and one hundred and fifteen; and no person shall receive compensation who does not remain in camp and perform all duties required during the period of encampment; except that a person who once appears and is excused from further duty shall be

entitled to compensation for the time he is actually engaged in service.

SECT. 133. No officer or soldier in the volunteer militia shall receive the compensation provided in this chapter, unless he personally performs the duties required by law ; and no substitute shall be allowed compensation for service belonging to another to perform ; nor shall excuses granted for absence from or non-performance of military duty entitle the person excused to receive such compensation.

Personal  
service re-  
quisite for  
compen-  
sation.

SECT. 134. The adjutant-general shall present his account for expenses incurred in the performance of his duty as inspector-general to the auditor of accounts for allowance.

Expenses of  
inspector-  
general.

SECT. 135. Officers obliged to go out of the city or town of their residence to attend a military election, shall be allowed ten cents a mile each way for travel.

Allowance  
for travel to  
a military  
election.

SECT. 136. Officers composing military boards, and witnesses, both for the Commonwealth and the accused, attending before them, shall receive five cents for every mile they necessarily travel in going to and returning from the place of trial, and the following sums for each day of attendance : The president of a military board, six dollars ; the judge-advocate of the same, six dollars, which shall be in full compensation, also, for all services of preparing papers before and making copies after any investigation ; the marshal and other members of such board, four dollars ; each witness attending on such board, or before the judge-advocate-general, one dollar and seventy-five cents. Fees for subpoenas and service of them shall be the same as in civil cases.

Travel and  
attendance  
of military  
boards and  
witnesses.

Pay and  
mileage of  
members of  
board of  
examiners.

Members of board provided in section twenty-one, other than the judge-advocate-general, shall receive for each day's duty on such board six dollars ; and five cents a mile each way for travel, to be paid by the treasurer of the Commonwealth,

upon the certificate of the military judge, approved by the adjutant-general.

No allowance shall be made for pay or rations for a military guard, unless such guard is ordered by the officer appointing the board, or by the judge-advocate-general, nor shall the above compensation be made to officers in actual service and receiving pay.

Officers,  
&c., tried by  
military  
board to be  
paid if ac-  
quitted.

Officers or men tried by a military board, board of examiners, the judge-advocate-general or judge advocates shall, if acquitted, be allowed the pay of their rank, to be paid out of the treasury on the certificate of the president of the board or the judge-advocate, to be approved by the adjutant-general.

Relief of  
disabled sol-  
diers.

SECT. 137. If an officer or soldier is wounded or otherwise disabled, or is killed or dies of wounds received while doing military duty, he, his widow or children shall receive from the general court just and reasonable relief.

Pay and  
rations  
while in ac-  
tual service.

SECT. 138. The militia while in actual service shall receive the same pay and rations as the regular troops of the United States; and the rations when commuted shall be valued at the rate fixed by the regulations of the United States army in force at the time. When the militia are discharged from actual service they shall be allowed pay and rations to their respective homes.

All military  
accounts to  
be transmit-  
ted to the  
adjutant-  
general on  
or before  
January 5th.

SECT. 139. All military accounts, including claims against the state for money expended in the transmission of military documents to and from the department of the adjutant-general, unless it is otherwise specially provided by law, shall annually, on or before the fifth day of January, be transmitted to the adjutant-general and examined, and if found correct, certified by him. They shall then, unless it is otherwise specially provided by law, be presented to the state auditor for allowance, and upon such allowance certified by him to the governor, shall be paid to the persons to whom they are personally due, or to their order, at the treasury of

the Commonwealth. And no military account shall be certified by the adjutant-general or allowed by the auditor, unless presented to the adjutant-general for allowance within the time prescribed by law.

SECT. 140. No officer shall be excused from duty except by the commander-in-chief, upon proper cause shown upon application.

Excuses for not performing military duty.

No enlisted man shall be excused from service except upon physician's certificate of disability to do duty as provided in section twelve, or for other imperative cause, and excuses shall be granted only by the regimental or battalion commander for proper cause shown upon application.

Excuses for the non-appearance of a soldier shall be made to the commanding officer of his company, or the officer detailed to train and discipline the company, within twenty days after a training or other military duty from which he has been absent; and on the delinquent's producing satisfactory evidence of his inability to appear, such officer may excuse him, with the approval of the commander of the regiment; but no such officer shall receive an excuse for non-appearance after the expiration of the twenty days. No excuse shall avail such soldier, on a prosecution for the recovery of a fine or forfeiture, unless proved to have been made to such officer before the expiration of the twenty days, unless the delinquent satisfies the tribunal before whom the case is tried that it was not in his power to make such excuse within the time. Such officers shall inform their clerks of all excuses allowed for non-appearance.

Excuses for non-appearance to be made to command'g officer.

SECT. 141. No commanders of companies shall receive excuses for deficiencies of equipment.

Deficiency of equipment.

SECT. 142. When a person is entitled to exemption from military duty, upon presenting evidence of the cause of his exemption to his commanding officer within or before a certain time, as provided in sections ten, eleven and twelve, and omits so to present such evidence, it shall not avail him by way

Excuses of conditional exempta.

of excuse upon a prosecution for a particular absence or default, unless he makes his excuse to the commanding officer within twenty days after the training, or satisfies the court or justice it was not in his power to make such excuse within the time.

Military board may be appointed to examine into capacity and propriety of conduct of officers.

SECT. 143. The commander-in-chief may, in addition to the board provided in section twenty-one, from time to time, and at any time, appoint a military board of examiners of not less than three nor more than five officers, whose duty it shall be to examine the capacity, qualifications, propriety of conduct and efficiency of any commissioned officer under the rank of major-general, who may be reported to them as a fit subject for examination, and upon the report of such board, if adverse to such officer and approved by the commander-in-chief, the commission of such officer shall be vacated: *provided, always*, that if practicable, two members at least of such board shall be of military rank at least equal to that of the officer to be examined. The commander-in-chief may also, when in his opinion it is necessary, call boards of officers for settling military questions, or for other purposes relative to good order and discipline.

Commander-in-chief may call boards of officers for settling military questions.

Construction of words "soldier" and "company."

SECT. 144. In this chapter the word "*soldier*" shall include musicians and all persons in the volunteer or enrolled militia except commissioned officers, and the word "*company*" may include battery.

Penalty for giving false certificate that a person is a Quaker, &c.

SECT. 145. If elders or overseers of a society of Quakers or Shakers give the certificate provided in the tenth section to a person who does not profess the religious faith of their society, or who is not a member thereof, or who is not conscientiously scrupulous of bearing arms, each elder or overseer so offending shall forfeit two hundred dollars to the use of the Commonwealth, and be imprisoned not exceeding six months. And any person claiming to be exempted from enrolment by virtue of such a certificate, who does not profess the religious faith or is not a member of the society named therein, or



who is not conscientiously scrupulous of bearing arms, shall be liable to the same penalty.

SECT. 146. Civil officers named in this chapter neglecting or refusing to obey its provisions shall, except as otherwise specially provided, forfeit not less than twenty nor more than five hundred dollars.

Penalty on civil officers.

SECT. 147. The provisions of this chapter concerning the powers and duties of the selectmen of towns, shall be construed to include the mayor and aldermen of any city.

"Selectmen" to include mayor and aldermen.

SECT. 148. A company may remain unattached to any regiment, brigade or division, or may be attached to a brigade or division whenever in the opinion of the commander-in-chief, the interests of the service require it; and the commanding officer of any such unattached company shall sign the warrants of the non-commissioned officers of said company, who may have been duly appointed, and any warrant so signed shall be in all respects valid: *provided*, that any company attached to a brigade or division shall be subject to the immediate orders of the commander of the brigade or division to which such company may be so attached, according to the provisions of the nineteenth section of this act.

Companies may remain unattached, or be attached to divisions or brigades.

SECT. 149. No citizen of the Commonwealth above the age of forty-five years shall on account of such age, be ineligible to office in the militia nor incapable of serving in a volunteer company, and no citizen of the Commonwealth, otherwise qualified, shall be ineligible to office in the militia from not having been enrolled therein.

Citizens above the age of forty-five, or not enrolled, not ineligible to office.

SECT. 150. The commander-in-chief may discharge any non-commissioned officer or soldier on application showing that applicant has removed from the state, or is physically disabled, disability to be established by regimental surgeon, or when two-thirds of the members of a company desire the discharge of one of their number on the ground of his being habitually troublesome, and of such char-

Non-commissioned officers and soldiers may be discharged by the commander-in-chief in certain cases.

acter as to degrade the company; and the commander-in-chief may, whenever in his opinion the interests of the service require it, discharge any non-commissioned officer or private of a volunteer company; in all cases facts to be fully set forth in the application which may come from any company officer, to be forwarded through proper channels, and approved by intermediate commanders.

Company  
may be dis-  
banded  
when its  
number is  
below forty-  
eight.

Proviso.

SECT. 151. Any company now organized, or that may hereafter be organized under the provisions of law, may be disbanded and their officers discharged by the commander-in-chief, whenever the number of officers, non-commissioned officers and privates duly enrolled therein for active service duty shall be less than forty-eight: *provided*, that such officers shall first have returned or accounted to the quartermaster-general for all uniforms, arms, equipments and other property belonging to the Commonwealth for which they may be responsible; and when it appears to the commander-in-chief that a company of militia has failed to comply with the requisitions of the law in matters of uniform, equipment and discipline, so that it is incapacitated to discharge the duties required of it, such company may be disbanded by the commander-in-chief.

None but  
regularly  
organized  
companies  
allowed to  
parade.

SECT. 152. It shall not be lawful for any body of men whatsoever, other than the regularly organized corps of the volunteer militia, the troops of the United States, and the ancient and honorable artillery company, and the veteran artillery association of Newburyport, to associate themselves together as a military company or organization, or to parade in public with arms in any city or town of this Commonwealth without the license of the governor thereof, which may at any time be revoked; nor shall it be lawful for any city or town to raise or appropriate any money toward arming, equipping, uniforming or in any way supporting, sustaining or providing drill-rooms or armories for any such body of men: *provided*, that associations wholly composed of soldiers honorably discharged from the

Associations  
composed of  
soldiers

service of the United States, may parade in public with arms, upon the reception of any regiments or companies of soldiers returning from said service, and for the purpose of infantry escort duty at the burial of deceased soldiers, having first obtained the written permission so to do of the mayor and aldermen or selectmen of the cities or towns in which they desire to parade.

honorably discharged from U. S. service may parade, &c.

SECT. 153. Whoever offends against the provisions of the preceding section, or belongs to or parades with any such unauthorized body of men, with arms, shall be punished by a fine not exceeding the sum of ten dollars, or by imprisonment in the house of correction or common jail for a term not exceeding six months.

Penalty for unlawful military parades.

SECT. 154. Nothing contained in this act shall be construed as affecting the right of the ancient and honorable artillery company to maintain its organization as a military company according to ancient usage, and agreeably to the provisions of its constitution and by-laws, provided the same are not repugnant to the laws of this Commonwealth, or do not restrain the lawful parades or exercise of the active militia.

The ancient and honorable artillery company to continue its organization.

SECT. 155. The governor shall appoint and commission, with the rank of brigadier-general, a judge-advocate-general, who shall be skilled in the law and in military usages, and he shall hear and determine, from time to time, all military offences which shall be brought before him, finding the facts of the accusation in all instances, and whether the accused is guilty or not guilty of the offence charged, and awarding sentence within the limits of the law, which findings and sentence shall be by him reduced to writing and forwarded for the approval of the commander-in-chief; and said judge-advocate-general shall be the court-martial of the militia. In case of approval, said judge-advocate-general may issue his warrant, under his hand and seal, reciting the conviction and sentence, and the approval of the governor, and directed to the sheriffs,

Judge-advocate-general to be appointed.

To be the court-martial of the militia.

deputy-sheriffs, constables and jailers, directing execution of the sentence to be done; which warrant shall be executed in like manner as a warrant or execution from a court of criminal jurisdiction might be.

Judge-advocate-general to hold courts.

Said judge-advocate-general shall hold courts as may be necessary, and at such times as the commander-in-chief may order, and said courts shall be continued by adjournment till the cases to be tried are disposed of.

Accusations to be in form of charges and specifications.

SECT. 156. Every accusation against any officer or enlisted man, shall be in the form of charges stating the legal nature of the offence imputed, and specifications setting forth the particular facts constituting the offence, with reasonable clearness, accuracy and conciseness, and shall be signed by the party preferring the same, and endorsed with the names of the witnesses to the facts of the specification; and no accusation shall be preferred for any act occurring more than two years previous.

Accusation to be forwarded until it reaches a brigade or division commander. To be referred to judge-advocate.

SECT. 157. When an accusation is preferred against any officer or enlisted man, it shall be forwarded through the proper channels, until it reaches a brigade or division commander, who shall refer it to his judge-advocate to determine if the accusation is in proper form, and to report whether or not it is expedient to prosecute; and upon receipt of his report, such commander shall order the prosecution to be made, or not to be made, or transmit the accusation and report for instructions as may seem expedient.

Accused to be furnished with copy, &c.

And in case a prosecution is ordered, the accused shall be furnished with a copy of the accusation by the judge-advocate, at least ten days before his trial, and may be suspended from command till his case has been heard, if the brigade commander shall so determine, or in extreme cases may be placed under arrest by any superior, before an accusation is preferred.

Judge-advocate-general may

SECT. 158. The judge-advocate-general may preserve order in his court with the same authority as

a court of record, and on any accusation against an officer may fine him not exceeding two hundred dollars, and sentence him in one or more of the following ways: to be reprimanded in orders, or to be imprisoned not exceeding thirty days, or to be dismissed the service and disqualified from military office for life or for a term of years, according to the nature of his offence; and on an accusation against an enlisted man, may fine him not exceeding fifty dollars, or sentence him to be reprimanded in orders; or if a non-commissioned officer to be reduced, or to be dishonorably discharged according to the nature of his offence. The judgment of disqualification may, after approval, be reversed in the whole or part by the commander-in-chief; but all other parts of the sentence, when approved, shall remain in full force.

punish an officer by fine or imprisonment, &c.

SECT. 159. Every commissioned officer may be tried for the following offences: for unmilitary or unofficer-like conduct when on duty; for neglect of duty; for disobedience of orders, or an act contrary to the provisions of this chapter; for oppression or injury of any under his command; for a combination or attempt to break, resist or evade the laws or lawful orders given to a person, or advising any person so to do; for insult to a superior officer in the exercise of his office; for presuming to exercise his command while under arrest or suspension, in which case, if guilty, he shall be removed from office; for neglect or refusal, when commanding officer, to order out the troops under his command when required by law or ordered by his superior officer; for excusing, as commanding officer of a company, any person under his command, for deficiency or unnecessary absence, or after the expiration of the time allowed by law; for neglect or refusal to make a draft or detachment when legally ordered to do so; for neglect or refusal to cause prosecutions to be commenced for fines, when it is necessary; for parading the troops under his command on days of election, contrary

Offences for which a commissioned officer may be tried.

to law; for receiving any fee or gratuity, as surgeon or assistant-surgeon, for a certificate of inability to do military duty; for neglect, when detailed to train and discipline a company, to make complaint for neglect or violation of duty as provided by law, or for any other neglect for which a commanding officer of the company would be liable; for neglect or refusal to march, to make a draft, or for disobedience to an order, in case of rebellion or insurrection, as provided by law, in which case the offender shall be cashiered; for refusal or neglect to obey a precept or order to call out the militia, or an order issued in obedience thereto, in case of tumult, riot or other cause as provided by law, or for advising any officer or soldier to do the like, in which cases the offender shall be cashiered, besides being subject to fine and imprisonment; or for any other conduct unbecoming an officer and gentleman, or to the prejudice of good order and military discipline, and affecting him in the exercise of his office or ability to command or retain the respect of those under him.

Offences for which an enlisted man may be tried.

SECT. 160. Any enlisted man may be tried before the judge-advocate-general for disobedience of orders, disrespect to his superiors, mutiny, exciting or instigating disrespect to the constituted authorities of the state or of the United States, or conduct to the prejudice of good order and military discipline, committed while on duty or under arms, or participating in any parade, inspection, encampment, drill or meeting, which shall be duly ordered by his superior officer, or prescribed by company constitution, or volunteered by vote of the company to which he belongs.

Enlisted men may be prosecuted for fines before the judge-advocate of the brigade.

SECT. 161. All fines and forfeitures incurred by an enlisted man under section one hundred and sixty-two may be prosecuted for by complaint of commander of his company before the judge-advocate of the brigade in which said company belongs, or before the judge-advocate of the division in case of divisionary corps, and said judge-advocate shall

have the same powers with regard to such prosecutions as municipal courts now have. And from the sentence of any such judge-advocate the accused may appeal to the next term of the superior court in like manner as from a conviction before a municipal court, in criminal cases; but no warrant need be issued to bring the offender before the judge-advocate.

Right of appeal to superior court.

SECT. 162. Every enlisted man absent without leave from duty, when legally notified to appear, shall be fined as follows, with costs: For absence from May inspection, four dollars. For absence from elementary drill, three dollars. For absence from encampment or review, for each day's absence, five dollars. For absence from special duty when ordered by the commander-in-chief, for each day's absence, three dollars. For absence from any parade, meeting or other service prescribed by company constitution or duly volunteered by vote of his company, for each day's absence, three dollars.

Fines for absence from duty, parade or meeting.

And every enlisted man appearing at any parade or drill required by law or duly volunteered, deficient in all or any of the arms, ammunition, equipment or uniform furnished by the state, or unserviceable or in bad condition, if from his own neglect, shall forfeit five dollars.

For deficiency in arms, uniforms, &c.

And every enlisted man who without order or unnecessarily comes to parade with loaded arms, or loads upon duty, or discharges his piece without orders either upon or on the way to or from his tour of duty, shall forfeit not less than five nor more than twenty dollars.

Fine for coming to parade with loaded arms, &c.

And every enlisted man neglecting his guard, or quitting his post of duty, shall forfeit two dollars. In lieu of said fines, enlisted men may be dishonorably discharged from the service, upon trial, as provided in section one hundred and sixty-one; but, in case of sentence to dishonorable discharge, there shall be an appeal to the judge-advocate-

In lieu of fines, enlisted men may be dishonorably discharged.

general. Any enlisted man so discharged shall be debarred from holding office in the militia.

Fines collected of company officers and men to be paid into the company treasury.

SECT. 163. All fines and forfeitures under the militia laws, which may be collected of company officers or of men shall be paid into the treasury of the company to which the party paying the fine belongs, for the general expenses of the company. All other fines and forfeitures shall upon collection be paid into the treasury of the Commonwealth.

When fines are not collected on warrant, &c., record to be returned to superior court.

SECT. 164. Fines and forfeitures not collected on warrant or execution may be collected by re, turning the record of conviction before the judge-advocate-general or judge-advocate into the superior court for the county in which the offence occurred to be recorded, and issuing *scire facias* thereon.

Judge-advocate may render judgment in the alternative for restoration of property, or damages.

SECT. 165. Prosecutions by commanders of companies to recover possession of state or company property, wrongfully withheld by any person, or damages for the loss or injury to the same may be made by complaint, setting forth the facts and the value of the property and the relief demanded, before the brigade or division judge-advocate, who may, if the nature of the case require, render judgment in the alternative for the restoration of the property or for liquidated damages to be paid to the prosecutor for the use of the state or company entitled to the property wrongfully withheld, lost or injured; and with regard to such cases, the judge-advocate shall have the same powers as a municipal court would have in civil cases, and the parties to the cause the same rights of appeals or otherwise, and execution shall be issued as in civil cases. When the amount in dispute is beyond the jurisdiction of municipal courts, prosecutions under this section shall be brought in the superior court of the county in which the defendant resides.

Fees of prosecuting officers.

SECT. 166. Prosecuting officers shall receive the per diem of officers on special duty and the docket-fee, to be paid upon certificate of the judge-advocate-general, or judge-advocate, from the treas-



ury of the Commonwealth, on approval of the adjutant-general.

Judge-advocates shall receive for the cases tried before them the same fees as trial justices, to be paid from the treasury of the Commonwealth on their certificate and affidavit. Witnesses and process officers shall be paid at the same rate as witnesses and process officers in courts of law on the certificate of the judge-advocate from the treasury of the Commonwealth, on the approval of the adjutant-general.

Fees of  
judge-advocate.

SECT. 167. Costs of prosecution shall in cases of conviction be at the same rates as in the criminal courts, and a docket-fee of four dollars shall in all cases be taxed to the prosecuting officer for each day spent in the trial.

Costs of  
prosecution.

SECT. 168. The judge-advocate-general or a judge-advocate may be detailed by the commander-in-chief to attend any encampment, and shall have during the encampment within the encampment, and for a distance of one mile from the guard-line the jurisdiction of a municipal court over all offences committed in said time.

Judge-advocate-general may be detailed to attend at encampments.

SECT. 169. Any officer, band-master or other person required to muster and make rolls or returns of men or property, neglecting the same, shall be fined twenty-five dollars, and if an inspecting or mustering officer, seventy-five dollars; and any officer or band-master making a false muster-roll or return of men or property shall forfeit one hundred dollars, and if a mustering or inspecting officer, three hundred dollars, to be recovered on complaint of the officer to whom the return is due, before the judge-advocate-general, subject to appeal to the superior court of the county in which the defendant resides.

Penalty on officer or other person neglecting to muster and make rolls and returns.

SECT. 170. In time of insurrection, invasion or active service within the state, the commander-in-chief may confer the powers of judge-advocate-general or of judge-advocate upon any officer

Powers of judge-advocate-general may be conferred upon another offi-

cer in case  
of insurrec-  
tion, &c.

Repeal.

serving with troops, or may order military offences to be tried as provided in the United States service.

SECT. 171. Chapters two hundred and nineteen of the acts of eighteen hundred and sixty-six; two hundred and sixty-six of acts of eighteen hundred and sixty-seven; two hundred and five and three hundred and thirty-two of acts of eighteen hundred and sixty-nine; two hundred and ninety-eight of acts of eighteen hundred and seventy; one hundred and ten, one hundred and eighty-seven and two hundred and ninety-eight of acts of eighteen hundred and seventy-two, and all other acts and parts of acts inconsistent with the provisions of this act, are repealed; but this section shall not be construed as reviving or in any manner restoring any former acts or parts of acts inconsistent with the provisions of this act, that were repealed by either of the chapters herein before named.

When to  
take effect.

SECT. 172. This act shall take effect upon the first day of June next. *Approved May 29, 1873.*





